

United States

5

Circuit Court of Appeals

For the Ninth Circuit.

PHOENIX BLUE DIAMOND EXPRESS, a corporation, Appellant,

vs.

DORRIO MENDEZ, Appellee.

PHOENIX BLUE DIAMOND EXPRESS, a corporation, Appellant,

vs.

LORETO LUNA, Appellee.

PHOENIX BLUE DIAMOND EXPRESS, a corporation, Appellant,

vs.

P. N. ESTRADA, administrator of the estate of JESUS VALENZUELA, deceased, Appellee.

PHOENIX BLUE DIAMOND EXPRESS, a corporation, Appellant,

vs.

FELIX LUGO, by his guardian ad litem, ESTEVAN SWOREZ, Appellee.

PHOENIX BLUE DIAMOND EXPRESS, a corporation, Appellant,

vs.

ANDRES ACUNA by his guardian ad litem, DELORES ACUNA, Appellee.

Supplemental Transcript of Record

Upon Appeals from the United States District Court for the District of Arizona

FILED

JAN 31 1933

United States
Circuit Court of Appeals

For the Ninth Circuit.

PHOENIX BLUE DIAMOND EXPRESS, a corporation,
vs. Appellant,

DORRIO MENDEZ,
Appellee.

PHOENIX BLUE DIAMOND EXPRESS, a corporation,
vs. Appellant,

LORETO LUNA,
Appellee.

PHOENIX BLUE DIAMOND EXPRESS, a corporation,
vs. Appellant,

P. N. ESTRADA, administrator of the estate of JESUS
VALENZUELA, deceased,
Appellee.

PHOENIX BLUE DIAMOND EXPRESS, a corporation,
vs. Appellant,

FELIX LUGO, by his guardian ad litem, ESTEVAN SWOREZ,
Appellee.

PHOENIX BLUE DIAMOND EXPRESS, a corporation,
vs. Appellant,

ANDRES ACUNA by his guardian ad litem, DELORES ACUNA,
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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In the District Court of the United States in and
for the District of Arizona

No. 1182—Phx.

No. 1183—Phx.

No. L1191—Phx.

No. L1192—Phx.

No. L-1193—Phx.

DORRIO MENDEZ,

Plaintiff,

LORETO LUNA,

Plaintiff,

P. N. ESTRADA, administrator of the estate of
JESUS VALENZUELA, deceased,

Plaintiff,

FELIX LUGO, by his guardian ad litem,
ESTEVAN SWOREZ,

Plaintiff,

ANDRES ACUNA by his guardian ad litem,
DELORES ACUNA,

Plaintiff,

vs.

PHOENIX BLUE DIAMOND EXPRESS, a cor-
poration, G. B. PACE, an individual and G. B.
PACE, d. b. a. Phoenix Blue Diamond Ex-
press, and JOE SMITH,

Defendants.

MOTION OF PLAINTIFFS-APPELLEES TO
SUPPLY OMISSIONS AND CORRECT
MISTAKES IN TRANSCRIPT OF RECORD
ON APPEAL AND INCLUDING CERTAIN
RECORDS AND PAPERS THEREIN.

Plaintiffs-appellees, by their attorneys, Minne & Sorenson and Geo. T. Wilson, move the Court for an order in each of the above entitled and numbered cases directing the Clerk of this Court to forthwith prepare, certify, and transmit to the United States District Court of Appeals for the Ninth Judicial Circuit, a Supplemental Transcript of Record supplying omissions and correcting misstatements in the Transcript of Record now on the appeal of said cases and now on [1*] file in said Circuit Court of Appeals, in this:

1. That page 238 (pages 182 and 183 of printed Transcript of Record) of the Transcript of Record as now prepared and filed, recites the proceedings had by this Court in the trial of these cases as follows:

“The Court: After you retire to your jury room, gentlemen, you will select one of your number to act as foreman.

Juror Ford: Can I ask you a question?

The Court: All right, what is it?

Juror Ford: In case the jury finds that the truck was driven by any one other than Joe

*Page numbering appearing at the foot of page of original certified Transcript of Record.

Smith, what would be your instructions as to the liability of the defendant?

The Court: Well, you take that up with the other jurors.

Juror Ford. Sir?

The Court: You haven't found anything yet. Wait until you get into your jury room.

Juror Ford: All right.

The Court: How do you know that the jury will find that? There will be five forms of verdict submitted, one in each case, gentlemen, one for the defendant and one for the plaintiff in each case. In the event your verdict is for the defendant, you will sign that form of verdict. In the event your verdict will be for the plaintiff you will insert the amount of damages you find and have that verdict signed by your foreman. Your verdict, of course, must be unanimous.

To the Court's refusal to answer question asked by Juror George O. Ford, the defendant, Phoenix Blue Diamond Express, a corporation, excepted."

2. That the true and actual proceedings had by this Court in said trials, so purported to be recited on page 238 (pages 182 and 183 of printed Transcript of Record) of said Transcript of Record, are as set forth in the Reporter's Transcript of Evidence, hereunto attached, marked Exhibit A, and by reference thereto adopted in and made a part of this motion. [2]

And plaintiffs-appellees further move the Court for an order directing said Clerk to include in said Supplemental Transcript of Record this motion, the order of this Court based thereon, the true and actual proceedings had by this Court in the trial of these cases, as set forth in the certified Transcript of Evidence hereto attached, the Minute Entries of Hearing by this Court on said motion, and such additional records and papers as by law and the rules of civil procedure of the District Court of the United States provided.

The grounds of this motion are: That a proper understanding and ruling on the Specifications of Error set forth in the Transcript of Record cannot be had, and that injustice to plaintiffs-appellees will result unless said Transcript is corrected to conform to the true and actual proceedings so had by this Court in the trial of these cases.

This motion is based on the certified Transcript of Evidence, marked Exhibit A, and the stipulation of the parties hereto, through their respective attorneys, providing for immediate hearing on this motion, marked Exhibit B, which said Exhibits are hereunto attached and by reference thereto adopted in and made a part of this motion, together with the records and files and Transcript of Record on the appeal of these cases to said Circuit Court of Appeals.

MINNE & SORENSON
GEO. T. WILSON

Attorneys for Plaintiffs-
Appellees. [3]

EXHIBIT "A"

Any questions, gentlemen?

Mr. Stockton: Yes, sir. Was your Honor going to instruct on this alleged punitive damages?

The Court: No, that is out of this case.

Mr. Stockton: I thought you were going to tell the jury.

The Court: We will disregard that. There was a prayer in each complaint for punitive damages, gentlemen, but you will not consider that.

Mr. Wilson: Just actual damages.

The Court: Only the actual damages.

Mr. Stockton: We desire to enter an exception to your Honor's refusal to give defendant's requested instruction Number 3, wherein we ask for a directed verdict in favor of the Phoenix Blue Diamond Express, a corporation, on the grounds previously stated, being that the truck was being operated outside the scope of the employment at the time of the collision, and we desire to have an exception to your Honor's refusal to give Defendant's requested instruction Number 9, relative to the affect of the testimony of the witnesses that may have been impeached, believing that the instruction we offer correctly states the law.

The Court: All right. Is that all?

Mr. Stockton: That is all.

The Court: Have you any exceptions?

Mr. Wilson: No exceptions, if the Court please.

The Court: After you retire to your jury room,

gentlemen, you will select one of your number to act as foreman.

Juror Ford: Can I ask you a question?

The Court: All right, what is it?

Juror Ford: In case the jury finds that that truck was driven by anyone else, in your opinion what would be your instructions as to the truck?

The Court: Well, you take that up with the other jurors.

Juror Ford: Sir?

The Court: You haven't found anything yet. Wait until you get into your jury room.

Juror Ford: All right.

The Court: How do you know that the jury will find that? There will be five forms of verdict submitted, one in each case, gentlemen, one for the defendant and one for the plaintiff in each case. In the event your verdict is for the defendant, you will sign that form of verdict. In the event your verdict will be for the plaintiff you will insert the amount of damages you find and have that verdict signed by your foreman. Your verdict, of course, must be unanimous.

Swear the bailiff.

(Thereupon the bailiff was duly sworn.)

The Court: You may retire with the bailiff.

(Thereupon the jury retired from the court room in custody of the bailiff to consider its verdict.)

Mr. Stockton: May there be an exception to your Honor's refusal to answer the juror's questions?

The Court: Yes.

Mr. Stockton: All right.

(Thereupon the trial ended.)

I hereby certify that the foregoing three pages numbered respectively 452, 453, and 454 are a true and accurate excerpt from the transcript of testimony compiled by me in re Dorrio Mendez, et al, versus Phoenix Blue Diamond Express, et al.

LOUIS L. BILLAR

Official Shorthand Reporter,
United States District Court.

[4]

EXHIBIT "B"

[Title of District Court and Cause.]

It is stipulated and agreed by and between the plaintiffs-appellees and the defendant-appellant, acting through their respective attorneys, Minne & Sorenson and Geo. T. Wilson, appearing for plaintiffs-appellees, and Henderson Stockton, Eli Gorodezky and S. N. Karam, appearing for defendant-appellant, that the above entitled Court may forthwith hear and determine plaintiffs-appellees' motion to supply omissions and correct mistakes in Transcript of Record on appeal, and [5] including certain records and papers therein, and that defendant-appellant waive further time herein and

notice of hearing as by law and the rules of this Court provided.

HENDERSON STOCKTON
 ELI GORODEZKY
 S. N. KARAM

Attorneys for Defendant-
 Appellant.

MINNE & SORENSON
 GEO. T. WILSON

Attorneys for Plaintiffs-
 Appellees.

[Endorsed]: Received copy of within motion this 19th day of December, 1938.

HENDERSON STOCKTON,
 ELI GORODEZKY
 S. N. KARAM

Attorneys for Defendant-
 Appellant.

[Endorsed]: Filed Dec. 19, 1938. [6]

[Title of District Court and Cause.]

ORDER SUPPLYING OMISSIONS AND CORRECTING MISSTATEMENTS OF TRANSCRIPT OF RECORD ON APPEAL AND DIRECTING CLERK TO FILE SUPPLEMENTAL TRANSCRIPT OF RECORD AND TO INCLUDE CERTAIN RECORDS AND PAPERS THEREIN.

This cause came on for hearing on December 20, 1938, on Motion of Plaintiffs-Appellees to Supply

Omissions and Correct Misstatements of Transcript of Record on appeal of the above cases by authority of Rule 75(H) of the Federal Rules of Civil Procedure, and by stipulation of the parties hereto for an immediate hearing on said motion; plaintiffs-appellees appeared by their attorneys, Minne & Sorenson and Geo. T. Wilson, and defendant-appellant appeared by its attorney, Henderson [7] Stockton; upon said hearing it appeared to the satisfaction of this Court that the Transcript of Record as now prepared and filed in the United States Circuit Court of Appeals for the Ninth Judicial Court on the appeal of the above cases omits and misstates certain proceedings had by this Court in the trial of said cases; that said omissions and misstatements materially affect the rights of the parties hereto on said appeal; and that a Supplemental Transcript of Record should be forthwith prepared, certified, and transmitted to said Circuit Court of Appeals supplying said omissions and correcting said misstatements in the particulars hereinafter set forth; therefore,

It is ordered:

1. That the Transcript of Record now prepared and filed on the appeal of these cases in the said Circuit Court of Appeals does not contain and recite the true and actual proceedings had by this Court in the trial of these cases, and that same be amended and supplemented on page 238 thereof (pages 182 and 183 of printed Transcript of Rec-

ord) in those matters, portions, and recitals reading as follows:

“The Court: After you retire to your jury room, gentlemen, you will select one of your number to act as foreman.

Juror Ford: Can I ask you a question?

The Court: All right, what is it?

Juror Ford: In case the jury finds that the truck was driven by any one other than Joe Smith, what would be your instructions as to the liability of the defendant?

The Court: Well, you take that up with the other jurors.

Juror Ford: Sir?

The Court: You haven't found anything yet. Wait until you get into your jury room.

Juror Ford: All right.

The Court: How do you know that the jury will find that? There will be five forms of verdict submitted, one in each case, gentlemen, [8] one for the defendant and one for the plaintiff in each case. In the event your verdict is for the defendant, you will sign that form of verdict. In the event your verdict will be for the plaintiff you will insert the amount of damages you find and have that verdict signed by your foreman. Your verdict, of course, must be unanimous.

To the Court's refusal to answer question asked by Juror George O. Ford, the defendant, Phoenix Blue Diamond Express, a corporation, excepted.”

2. That the Clerk of this Court do forthwith prepare, certify, and transmit to said Circuit Court of Appeals a Supplemental Transcript of Record on the appeal of these cases amending and supplementing the matters, portions, and recitals so contained on said page 238 of said Transcript of Record, as above set forth, by the true and actual proceedings had by this Court in the trial of these cases, and now found and determined by this Court to be as follows:

“The Court: After you retire to your jury room, gentlemen, you will select one of your number to act as foreman.

Juror Ford: Can I ask you a question?

The Court: All right, what is it?

Juror Ford: In case the jury finds that that truck was driven by anyone else, in your opinion what would be your instructions as to the truck?

The Court: Well, you take that up with the other jurors.

Juror Ford: Sir?

The Court: You haven't found anything yet. Wait until you get into your jury room.

Juror Ford: All right.

The Court: How do you know that the jury will find that? There will be five forms of verdict submitted, one in each case, gentlemen, one for the defendant and one for the plaintiff in each case. In the event your verdict is for the defendant, you will sign that form of verdict. In the event your verdict will be for the plain-

tiff you will insert [9] the amount of damages you find and have that verdict signed by your foreman. Your verdict, of course, must be unanimous.

Swear the bailiff.

(Thereupon the bailiff was duly sworn.)

The Court: You may retire with the bailiff.

(Thereupon the jury retired from the court room in custody of the bailiff to consider its verdict.)

Mr. Stockton: May there be an exception to your Honor's refusal to answer the juror's questions?

The Court: Yes.

Mr. Stockton: All right.

(Thereupon the trial ended.)"

3. That the said true and actual proceedings had by this Court in the trial of these cases be set forth in said Supplemental Transcript of Record in question and answer form, and as set forth in paragraph 2 of this Order; and that said Clerk include in said Supplemental Transcript of Record plaintiffs-appellees' "Motion to Supply Omissions and Correct Misstatements in Transcript of Record," including Exhibits "A" and "B" attached thereto, the Minute Entries of this Court in the trial of these cases under dates of April 12, 1938, December 20, 1938, and this Order, together with such other records and papers as are required by law, or by the rules of this Court, or said Circuit Court of Appeals.

4. That said Supplemental Transcript of Record and the recitals, portions, and matters therein contained be deemed and construed as a part of the Bill of Exceptions on the appeal of these cases.

5. That this Order extend to each of the above entitled and numbered cases, and that defendant-appellant have [10] an exception to the making and entry of this Order.

Dated this 27th day of December, 1938.

DAVE W. LING

District Judge.

Received copy of within order this 21st day of December 1938. Opportunity to present objections desired.

HENDERSON STOCKTON

Attorney for Defendant-
Appellant.

[Endorsed]: Filed Dec. 27, 1938. [11]

[Title of District Court.]

October 1938 Term.

MINUTE ENTRY OF DECEMBER 20, 1938
at Phoenix.

(Phoenix Division)

Honorable Dave W. Ling, United States District
Judge, presiding.

[Title of Cause.]

George Wilson, Esquire, and George Sorenson,
Esquire, appear as counsel for the plaintiffs and

Henderson Stockton, Esquire, appears as counsel for the defendant, Phoenix Blue Diamond Express.

Upon stipulation of said counsel,

It is ordered that the Motion of Plaintiffs-Appellees to Supply Omissions and Correct Mistakes in Transcript of Record on Appeal and Including Certain Records and Papers Therein be set for hearing at this time.

Said motion is now duly argued by respective counsel, and

It is ordered that said motion be submitted and by the Court taken under advisement. [12]

[Title of District Court.]

April 1938 Term.

MINUTE ENTRY OF APRIL 12, 1938
at Phoenix.

(Phoenix General Minutes.)

Honorable Dave W. Ling, United States District
Judge, presiding.

[Title of Cause.]

The jury, and all members thereof, and counsel for respective parties are present pursuant to recess, and further proceedings of trial are had as follows: [13]

Thereupon, the Jury is duly admonished by the Court and excluded from the Court Room.

Counsel for the defendants moves to strike testimony of plaintiffs' witness Kelly Turner, and

It is ordered that said motion be and it is granted.

Counsel for the defendants now moves for a directed verdict as to defendants Phoenix Blue Diamond Express, G. B. Pace, an individual, and G. B. Pace, d. b. a. Phoenix Blue Diamond Express; and moves for a directed verdict as to the defendant Phoenix Blue Diamond Express, and for a directed verdict as to the defendant G. B. Pace, an individual, and for a directed verdict as to the defendant G. B. Pace, d. b. a. Phoenix Blue Diamond Express, and

It is ordered that said motion for a directed verdict as to the defendant G. B. Pace, d. b. a. Phoenix Blue Diamond Express, be granted, and that said remaining motions for a directed verdict be denied, to which ruling and order of the Court the defendants except.

Thereupon, the Jury return in a body into open Court at the hour of 10:30 o'clock a. m., and all members thereof being present, further proceedings of trial are had as follows:

Defendants' Case:

C. W. Rollen is now sworn and examined on behalf of the defendants.

Whereupon the defendants rest.

Both sides rest.

Thereupon, counsel for the defendants now renews his motions for a directed verdict as to the

defendant Phoenix Blue Diamond Express, and as to the defendant G. B. Pace, an individual, and

It is ordered that said motions be and they are denied, to which ruling of the Court the defendants except.

And thereupon, at the hour of 11:30 o'clock a. m., it is ordered that the further trial of these cases be continued to the hour of 1:30 o'clock p. m. this date, to which time the Jury, being first duly admonished by the Court, the parties and counsel are excused. [14]

Subsequently, at the hour of 1:40 o'clock p. m., the Jury and all members thereof, the parties and their respective counsel are present pursuant to recess, and further proceedings of trial are had as follows:

All the evidence being in, the cases are argued by respective counsel to the Jury.

It is ordered that motion for a directed verdict as to the defendant G. B. Pace, an individual, and as to defendant G. B. Pace, d. b. a. Phoenix Blue Diamond Express, be granted.

Whereupon, the Court instructs the Jury to return a directed verdict in favor of the defendants G. B. Pace, an individual, and G. B. Pace, d. b. a. Phoenix Blue Diamond Express, in each of these cases.

Roy Painter is now appointed by the Court to act as Foreman, and signs and presents the following verdicts:

L-1182 Phoenix.

“DORRIO MENDEZ,

Plaintiff,

Against

PHOENIX BLUE DIAMOND EXPRESS,
a corporation, G. B. Pace, an individual,
and G. B. Pace d.b.a. Phoenix Blue Dia-
mond Express,

Defendants.

VERDICT

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find for the defendants G. B. Pace, an individual, and G. B. Pace, d.b.a. Phoenix Blue Diamond Express.

ROY PAINTER,
Foreman.”

L-1183 Phoenix.

“LORETO LUNA,

Plaintiff,

Against

PHOENIX BLUE DIAMOND EXPRESS,
a corporation, G. B. Pace, an individual,
and G. B. Pace, d.b.a. Phoenix Blue Dia-
mond Express,

Defendants,

VERDICT

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do

find for the defendants G. B. Pace, an individual, and G. B. Pace, d.b.a. Phoenix Blue Diamond Express.

ROY PAINTER,
Foreman." [15]

L-1191 Phoenix.

"P. N. ESTRADA, administrator of the estate
of Jesus Valenzuela, deceased,

Plaintiff,

Against

PHOENIX BLUE DIAMOND EXPRESS,
a corporation, G. B. PACE, an individual,
and G. B. PACE, d.b.a. Phoenix Blue Diamond Express,

Defendants.

VERDICT

We, the Jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find for the defendants G. B. Pace, an individual, and G. B. Pace, d.b.a. Phoenix Blue Diamond Express.

ROY PAINTER,
Foreman."

L-1192 Phoenix.

“FELIX LUGO, by his guardian ad litem,
ESTEVAN SWOREZ,

Plaintiff,

Against

PHOENIX BLUE DIAMOND EXPRESS,
a corporation, G. B. PACE, an individual,
and G. B. PACE, d.b.a. Phoenix Blue Dia-
mond Express,

Defendants.

VERDICT

We, the Jury, duly empaneled and sworn in
the above-entitled action, upon our oaths, do
find for the defendants G. B. Pace, an individ-
ual, and G. B. Pace, d.b.a. Phoenix Blue Dia-
mond Express.

ROY PAINTER,

Foreman.”

L-1193 Phoenix.

“ANDRES ACUNA by his guardian ad litem
DELORES ACUNA,

Plaintiff,

Against

PHOENIX BLUE DIAMOND EXPRESS,
a corporation, G. B. PACE, an individual,
and G. B. PACE, d.b.a. Phoenix Blue Dia-
mond Express,

Defendants,

VERDICT

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find for the defendants G. B. Pace, an individual, and G. B. Pace, d.b.a. Phoenix Blue Diamond Express.

ROY PAINTER,
Foreman.”

Whereupon, the Court duly instructs the Jury.

Counsel for the defendant excepts to the Court's refusal to give defendant's requested instructions numbers 3 and 9, and to the Court's refusal to answer question asked by juror George O. Ford.

Said Jury now retire at the hour of 4:15 o'clock p. m., in charge of sworn bailiff to consider of their verdicts. [16]

Subsequently, the parties and counsel being present, the Jury return in a body into open Court at the hour of 9:15 o'clock p. m., and all members thereof being present, are asked if they have agreed upon verdicts. Whereupon, the Foreman reports that they have agreed and presents the following verdicts, to-wit:

L-1182 Phoenix.

“DORRIO MENDEZ,

Plaintiff,

Against

PHOENIX BLUE DIAMOND EXPRESS,
a corporation, G. B. PACE, an individual,
and G. B. PACE, d.b.a. Phoenix Blue Dia-
mond Express,

Defendants.

VERDICT

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find for the plaintiff against the defendant Phoenix Blue Diamond Express, a corporation, and assess plaintiff's damages at \$3500.00.

ROY PAINTER,
Foreman.”

L-1183 Phoenix.

“LORETO LUNA,

Plaintiff,

Against

PHOENIX BLUE DIAMOND EXPRESS,
a corporation, G. B. PACE, an individual,
and G. B. PACE, d.b.a. Phoenix Blue Dia-
mond Express,

Defendants.

VERDICT

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do

find for the plaintiff against the defendant Phoenix Blue Diamond Express, a corporation, and assess plaintiff's damages at \$2750.00.

ROY PAINTER,
Foreman."

L-1191 Phoenix.

"P. N. ESTRADA, administrator of the estate of Jesus Valenzuela, deceased,
Plaintiff,

Against

PHOENIX BLUE DIAMOND EXPRESS,
a corporation, G. B. PACE, an individual,
and G. B. PACE, d.b.a. Phoenix Blue Diamond Express,

Defendants.

VERDICT

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find for the plaintiff against the defendant Phoenix Blue Diamond Express, a corporation, and assess plaintiff's damages at \$1500.00.

ROY PAINTER,
Foreman." [17]

L-1192 Phoenix.

“FELIX LUGO, by his guardian ad litem,
ESTEVAN SWOREZ,

Plaintiff,

Against

PHOENIX BLUE DIAMOND EXPRESS,
a corporation, G. B. PACE, an individual,
and G. B. PACE, d.b.a. Phoenix Blue Dia-
mond Express,

Defendants.

VERDICT

We, the Jury, duly empaneled and sworn in
the above-entitled action, upon our oaths, do
find for the plaintiff against the defendant
Phoenix Blue Diamond Express, a corporation,
and assess plaintiff's damages at \$1500.00.

ROY PAINTER,
Foreman.”

L-1193 Phoenix.

“ANDRES ACUNA by his guardian ad litem
DELORES ACUNA,

Plaintiff,

Against

PHOENIX BLUE DIAMOND EXPRESS,
a corporation, G. B. PACE, an individual,
and G. B. PACE, d.b.a. Phoenix Blue Dia-
mond Express,

Defendants.

VERDICT

We, the Jury, duly empaneled and sworn in
the above-entitled action, upon our oaths, do
find for the plaintiff against the defendant
Phoenix Blue Diamond Express, a corporation,
and assess plaintiff's damages at \$2250.00.

ROY PAINTER,
Foreman.”

The verdicts are read as recorded and no poll
being desired by either side, the Jury is discharged
from the further consideration of these cases and
excused until Tuesday, April 19, 1938 at ten o'clock
a. m. [18]

In the United State District Court for the District of Arizona.

United States of America,
District of Arizona.—ss.

I, Edward W. Scruggs, Clerk of the United States District Court for the District of Arizona, do hereby certify that I am the custodian of the records, papers and files of the said Court, including the records, papers and files in the cases of Dorrio Mendez, Plaintiff vs. Phoenix Blue Diamond Express, a corporation, et al, Defendants, Loreto Luna, Plaintiff, vs. Phoenix Blue Diamond Express, a corporation, et al, Defendants, P. M. Estrada, administrator of the estate of Jesus Valenzuela, deceased, Plaintiff, vs. Phoenix Blue Diamond Express, a corporation, et al, Defendants, Felix Lugo, by his guardian ad litem, Estevan Sworez, Plaintiff, vs. Phoenix Blue Diamond Express, a corporation, et al, Defendants, and Andres Acuna, by his guardian ad litem, Delores Acuna, Plaintiff, vs. Phoenix Blue Diamond Express, a corporation, et al, Defendants, numbered L-1182 Phoenix, L-1183 Phoenix, L-1191 Phoenix, L-1192 Phoenix and L-1193 Phoenix, respectively, on the docket of said Court.

I further certify that the attached pages, numbered 1 to 18, inclusive, contain a full, true and correct transcript of the proceedings of said causes together with the endorsements of filing thereon, called for and designated in the order of said court filed in said causes and made a part of the tran-

script attached hereto, as the same appear from the originals of record and on file in my office as such Clerk, in the City of Phoenix, State and District aforesaid.

I further certify that the Clerk's fee for preparing and certifying to this said supplemental transcript of record amounts to the sum of \$3.20 and that said sum has been paid to me by counsel for the appellants.

Witness my hand and the seal of the said Court this 29th day of December, 1938.

[Seal] EDWARD W. SCRUGGS,
Clerk.

[Endorsed]: No. 8953. In the United States Circuit Court of Appeals for the Ninth Circuit. Phoenix Blue Diamond Express, a corporation, Appellant, vs. Dorrio Mendez, Appellee. Phoenix Blue Diamond Express, a corporation, Appellant, vs. Loreto Luna, Appellee. Phoenix Blue Diamond Express, a corporation, Appellant, vs. P. N. Estrada, administrator of the estate of Jesus Valenzuela, deceased, Appellee. Phoenix Blue Diamond Express, a corporation, Appellant, vs. Felix Lugo, by his guardian ad litem, Estevan Sworez, Appellee. Phoenix Blue Diamond Express, a corporation, Appellant, vs. Andres Acuna by his guardian ad litem, Delores Acuna, Appellee. Supplemental Transcript of Record Upon Appeals from the United States District Court for the District of Arizona.

Filed Dec. 31, 1938.

PAUL P. O'BRIEN,
Clerk.

